

Explanatory Memorandum to The Hazardous Waste (Wales) (Amendment) Regulations 2019

This Explanatory Memorandum has been prepared by the Department for Environment and Rural Affairs and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Deputy Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Hazardous Waste (Wales) (Amendment) Regulations 2019.

HANNAH BLYTHYN AM
DEPUTY MINISTER FOR HOUSING AND LOCAL GOVERNMENT
24 JULY 2019

PART 1

1. Description

The EU Regulation on Persistent Organic Pollutants (POPs) (recast) (Regulation EU 2019/1021 of the European Parliament and of the Council) was published in the Official Journal of the European Union on 25 June 2019 and will come into force on 15 July 2019. Regulation 2019/1021 repeals and replaces Regulation (EC) No 850/2004 of the European Parliament and of the Council of 29 April 2004 on persistent organic pollutants and amending Directive 79/117/EEC (Regulation 850/2004). This instrument amends Wales-only legislation that includes references to Regulation 850/2004, by substituting a reference to Regulation 2019/1021.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

The Hazardous Waste (Wales) (Amendment) Regulations 2019 are made under the European Communities Act 1972 (ECA) section 2(2) enabling power. Section 2(2) of the European Communities Act 1972 offers a choice between negative and affirmative procedures. As these amendments are technical in nature and involve updating references to EU legislation and the discretion of the Welsh Ministers is limited over the content of the SI, the instrument is suitable for negative procedure.

3. Legislative background

The Welsh Ministers make these Regulations in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972 (“the ECA 1972”). The Welsh Ministers are designated for the purposes of section 2(2) of the ECA 1972 in relation to measures relating to the prevention, reduction and elimination of pollution caused by waste and the prevention, reduction and management of waste.

These Regulations make provision for a purpose mentioned in section 2(2) of the ECA 1972, and it appears to the Welsh Ministers that it is expedient for references to Regulation (EU) 2019/1021 of the European Parliament and of the Council on persistent organic pollutants (recast) to be construed as references to that Regulation as amended from time to time.

4. Purpose and intended effect of the legislation

Persistent Organic Pollutants (POPs) are substances identified as being toxic, persistent, bio-accumulative and long ranging. The EU Regulation implements the Stockholm Convention on POPs, which aim to eliminate or restrict the

production and use of these substances. The UK will remain a party to this international Convention following EU exit.

EU Regulation 850/2004 on Persistent Organic Pollutants entered into force on 20 May 2004 and implemented the provisions of the Stockholm Convention in the EU.

The revised EU regulation 2019/1021 was published in the Official Journal of the European Union on 25 June, and will come into force on 15 July 2019. The main changes to the EU Regulation are procedural and technical changes to further reduce production and use of POPs. In addition, they increase the role for the European Chemicals Agency, particularly in relation to providing advice and support to the Commission when considering proposals for listing a substance as a POP.

This instrument amends the hazardous waste producer returns form set out in The Hazardous Waste (Wales) Regulations 2005. The form in Wales is bilingual and contained in Schedule 8 of those Regulations. All references to EU regulation 850/2004 in The Hazardous Waste (Wales) Regulations 2005 are amended by substituting EU Regulation 2019/1021.

5. Consultation

A consultation was not conducted as this instrument is only required to correct references to EU regulations within Welsh legislation, and does not constitute a policy change.

6. Regulatory Impact Assessment (RIA)

This instrument is required to amend Wales-only legislation that includes references to Regulation 850/2004, by substituting a reference to Regulation 2019/1021; as such this instrument doesn't confer any new burdens on businesses, charities or voluntary bodies. Furthermore, there is no significant impact on the public sector.

An Impact Assessment has not been prepared for this instrument because this instrument relates to the maintenance of existing regulatory standards.

The legislation has no impact on the statutory duties (sections 77 -79 GOWA 06) or statutory partners (sections 72-75 GOWA 06).